

S.B. CIVIL WRIT PETITION NO.2550/2005

Basant Kumari and ors. Vs. State of Rajasthan and ors.

Date : 2.5.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Sudhir Sharma, for the petitioners.

- - - - -

Heard learned counsel for the petitioners.

According to learned counsel for the petitioners, ceiling proceedings under the provisions of Ceiling Law applicable for agriculture land were initiated by the State Government but ultimately they were quashed and set aside by the order of this Court in S.B. Civil writ Petition No.1520/1999 (Basant Kumari vs. State of Rajasthan and ors.) decided on 20.2.2004.

According to learned counsel for the petitioners, there is no order in any ceiling proceedings against the petitioners and despite this fact, the revenue authorities are not correcting the revenue entries.

According to learned counsel for the petitioners, the petitioners submitted representation before the District Collector, Pali but that too was not decided properly and, therefore, this Court in S.B. Civil writ Petition NO.6220/2003 vide order dated 3.1.2005 directed the

District Collector, Pali to decide the petitioners' representation within a period of two months from the date of receipt of the copy of order, after taking into account all the facts which occurred after the orders passed by this Court and after taking note of the decision dated 20.2.2004 passed in S.B. Civil Writ Petition No.1520/1999.

According to learned counsel for the petitioners, the District Collector now has rejected the petitioners' representation by impugned order dated 22.3.2005 (Annex.10). According to learned counsel for the petitioners, the District Collector, before passing the impugned order dated 22.3.2005 (Annex.10), failed to notice that the appeal preferred by the State Government against the judgment of this Court in S.B. Civil Writ Petition No.1520/1999 has already been dismissed by this Court vide order dated 14.3.2005.

According to learned counsel for the petitioners, the District Collector also committed illegality in observing what should have been done in the ceiling proceedings as what has been concluded by the decision in ceiling proceedings and upheld up to High Court or the matter which has been decided by High Court so far as the case of the petitioners is concerned, they cannot be interfered by any authority.

According to learned counsel for the petitioners, in view of the reason that the District Collector passed the

impugned order dated 22.3.2005 whereas D.B. Civil Special Appeal DR(J) No.3672/2004 was decided by High Court on 14.3.2005 almost a week before only, therefore, the order of the Division Bench was not in the knowledge of the petitioners.

It appears that since the D.B. Appeal was dismissed by this Court on 14.3.2005, a week ago only, this fact must not have reached to the District Collector, therefore, the District Collector observed that the appeal against the decision of S.B. Civil Writ Petition NO.1520/1999 is pending before the High Court and has passed the impugned order.

In view of the above, since the very foundation of the order dated 22.3.2005 appears to be because of the fact that the dismissal of D.B. Appeal was not brought to the notice of the District Collector and, therefore, the District Collector, assuming that the ceiling proceedings which were under challenge in S.B. Civil Writ Petition NO.1520/1999 is sub-judice, passed the impugned order.

In view of the above discussion, this writ petition is disposed of with a direction to the District Collector, Pali to look into the matter again and pass appropriate order, after hearing both the parties and after treating the orders which have been passed in ceiling proceedings as final and the fact that the division bench judgment of this Court in D.B. Civil Special Appeal DR(J) No.3672/2004 was

not in the knowledge of the District Collector, Pali. The District Collector shall decide the matter afresh uninfluenced by the impugned order dated 22.3.2005 (Annex.10).

(PRAKASH TATIA), J.

S.Phophaliya